

The Honorable MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COSTCO WHOLESALE
CORPORATION, a Washington
corporation,

Plaintiff,

v.

ROGER HOEN, VERA ING, and
MERRITT LONG, in their official
capacities as members of the Washington
State Liquor Control Board;

Defendants, and

WASHINGTON BEER AND WINE
WHOLESALE ASSOCIATION, a
Washington non-profit corporation,

Intervener Defendants.

NO. CV04-360P

ANSWERS AND OBJECTIONS
OF DEFENDANTS TO
PLAINTIFF'S SECOND
INTERROGATORIES TO WSLCB
DEFENDANTS

Plaintiff Costco Wholesale Corporation makes the following document requests to
Defendants Hoen, Ing, and Long pursuant to Federal Rules of Civil Procedure 26 and 34.

INSTRUCTIONS

Plaintiff incorporates the instructions in its First Interrogatories.

DEP EDWINT
CARLSON, RANTE
NOTARY PUBLIC

8-1105

ANSWERS AND OBJECTIONS OF
DEFENDANTS TO PLAINTIFF'S
SECOND INTERROGATORIES TO
WSLCB DEFENDANTS
-- NO. CV04-360P

1

Attorney General of Washington
Revenue Division
905 Pluna Street SE, Bldg. 3
PO Box 40123
Olympia, WA 98504-0123
(360) 753-5528

PLAINTIFF'S
EXHIBIT

CASE
NO. CV04-0360P

EXHIBIT
NO. 245

TX245_001

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INTERROGATORIES

INTERROGATORY NO. 22: Identify each person you intend to call, or are considering calling, as a trial witness and whose deposition has not yet been taken or noted.

ANSWER: See the General Objections, which are incorporated in this answer as fully set forth. Further objection in that the LCB has not made any final determinations of who it may or may not wish to call at trial and the LCB reserves the right to name trial witnesses individuals it may not be aware of or individuals which the LCB might not at this moment be contemplating calling as a trial witness, but whom the LCB may later determine would be appropriate trial witnesses. The LCB further objects to any attempt by plaintiffs to preclude the LCB from calling as witnesses at trial individuals whose depositions have not been taken or noted and whose names are not provided in response to Interrogatory No. 22. Any additional witnesses will be disclosed by the LCB to Plaintiff as required by FRCP 26(3). Without waiving its objection, LCB answers as follows: Jeanne Reschan MIW liquor enforcement officer of the Licensing and Regulation Division, Rich Manoli, MIW senior liquor enforcement officer of the Licensing and Regulation Division, Pat Kohler, Administrative Director of LCB, Steve Burnell, Wine Program Beverage Merchandising Manager of LCB Purchasing Division, Randy Simmons, Director of LCB Financial Division.

INTERROGATORY NO. 23: Identify all factual information supporting any finding identified in the materials produced in response to Request for Production Nos. 50-53.

ANSWER: See the General Objections, which are incorporated in this answer as fully set forth. LCB objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. The produced documents should answer Plaintiff's interrogatory.

INTERROGATORY NO. 24: Identify what social or public benefits the State contends are accomplished by treating all retailers the same regardless of variations in their need for distributor services, ability to negotiate favorable terms, creditworthiness, or other competitive attributes.

1 **ANSWER:** See the General Objections, which are incorporated in this answer as
2 fully set forth. Without waiving its objection, LCB answers as follows: LCB contends that the
3 Legislative purpose of fostering orderly and responsible distribution of malt beverages and
4 wine towards effective control of consumption is accomplished by insuring that all licensed
5 retailers are provided equal opportunity regardless of size or market share of the availability of
6 malt beverages and wine and at a uniform price posted through the price posting system.

7 **INTERROGATORY NO. 25:** Explain how the prohibitions and requirements are
8 factually more necessary, effective, or sufficient in protecting small retailers or in promoting
9 temperance than the resale price maintenance analyzed in California Retail Liquor Dealers
10 Ass'n v. Midcal Aluminum, Inc., 445 U.S. 97 (1980), and 324 Liquor Corp. v. Duffy, 479 U.S.
11 335 (1987).

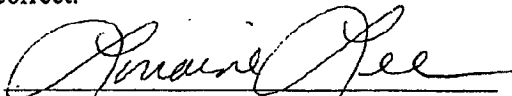
12 **ANSWER:** See the General Objections, which are incorporated in this answer as
13 fully set forth. Further objection to Interrogatory No. 25 as calling for legal opinion and
14 conclusion and as seeking information which is not reasonably calculated to lead to discovery
15 of admissible evidence and as assuming facts not in evidence, specifically, that the prohibitions
16 and requirements at issue in this lawsuit have the goal of "protecting small retailers" or of
17 "promoting temperance."

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VERIFICATION

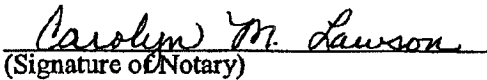
STATE OF WASHINGTON)
COUNTY OF THURSTON) ss:

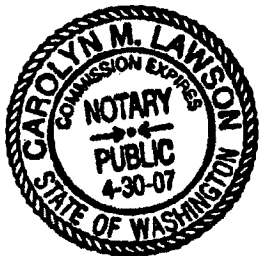
I have been delegated the authority to review and sign on behalf of the officials of the Liquor Control Board and, pursuant to CR 33, I certify that I have read the foregoing Answers and Objections of Defendants to Plaintiff's Second Interrogatories to WSLCB Defendants and believe them to be true and correct.



LORRAINE LEE
Liquor Control Board
Director of Licensing & Regulation

SUBSCRIBED AND SWORN to before me this 1st day of August, 2005.


(Signature of Notary)



CAROLYN M. LAWSON
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State
of Washington, residing at Olympia.
My Appointment Expires: 4/30/07.

THE HONORABLE MARSHA J. PECHMAN

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COSTCO WHOLESALE CORPORATION, a
Washington corporation,

Plaintiff,

v.

ROGER HOEN, VERA ING, and MERRITT
LONG, in their official capacities as members
of the Washington State Liquor Control Board;

Defendants, and

WASHINGTON BEER AND WINE
WHOLESALE ASSOCIATION, a
Washington non-profit corporation;

Intervenor Defendant.

NO. CV04-360P

**DEFENDANTS' RESPONSES AND
OBJECTIONS TO**

**PLAINTIFF'S REQUESTS FOR
ADMISSION TO WSLCB
DEFENDANTS**

Plaintiff Costco Wholesale Corporation propounds the following requests for admission
to Defendants Hoen, Ing, and Long.

DEFINITIONS

Except as follows, plaintiff incorporates the definitions in its First Interrogatories.

The "prohibitions and requirements" or "prohibition or requirement" include the
following:

L. Lee
289
DEP EXHIBIT
CAN. RANTE
NOTARY PUBLIC

PLAINTIFF'S REQUESTS FOR ADMISSION TO WSLCB
DEFENDANTS (NO. CV04-360P) - I
[29040-0087-000000/Ans Req for Adm.DOC]

8-1105
Perkins Cole LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

- 1 a. prohibiting licensed retailers from purchasing directly from out-of-state
2 suppliers;
3
4
5 b. requiring a mark-up of at least 10% by distributors, producers, and
6 wineries or brewers that sell directly to retailers;
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9 c. requiring uniform pricing by suppliers to all retailers regardless of
10 differences in volume, delivery practices, costs, or other factors;
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12
13 d. requiring advance posting of prices by suppliers;
14
15 e. prohibiting suppliers from reducing prices during a month;
16
17 f. prohibiting extension of credit to retailers by suppliers;
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19 g. prohibiting retailers from taking delivery of wine or beer at a central depot
20 or transferring wine or beer between retail locations;
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23 h. prohibiting licensed retailers from selling to or buying from other licensed
24 retailers; and
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27 i. prohibiting licensed retailers from warehousing wine.
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29 REQUESTS FOR ADMISSION 30

31 REQUEST FOR ADMISSION NO. 1: Admit that there has been no affirmative
32 expression by the State of Washington that all or any of the prohibitions and requirements are
33 intended to control or reduce abusive or excessive consumption.
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36 ANSWER: DENIED. RCW 66.28.180 (1) and WAC 314-20-100, 314-24-190 address
37 effective control of consumption. Also, "orderly market" enacting of 6737 reaffirmed this, see
38 transcript of 3/11/04 of floor debate.
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45 REQUEST FOR ADMISSION NO. 2: Admit that there has been no affirmative
46 expression by the State of Washington that all or any of the prohibitions and requirements are
47 intended to increase prices to consumers.
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51 ANSWER: DENIED.

PLAINTIFF'S REQUESTS FOR ADMISSION TO WSLCB
DEFENDANTS (NO. CV04-360P) - 2
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1 **REQUEST FOR ADMISSION NO. 3:** Admit that there has been no affirmative
2
3 expression by the State of Washington that all or any of the prohibitions and requirements are
4
5 intended to allow costs, public and private, to be considered in the consumer's consumption
6
7 decision as possible.
8

9 **ANSWER: OBJECTION.** Vague and incomprehensible as to what does "intended" or
10
11 the following phrase "to allow as many as many costs public and private to be considered in the
12
13 consumer's consumption decision as possible" mean. To the extent the question means that
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15 prohibitions and requirements have no affirmative effect on consumer consumption, **DENIED.**
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27 **REQUEST FOR ADMISSION NO. 4:** Admit that there has been no affirmative
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29 expression by the State of Washington that all or any of the prohibitions and requirements are
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31 intended to subsidize small retailers.
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43 **ANSWER: OBJECTION** to the word "subsidize", it is not defined. **DENIED.** See
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45 RCW 66.28.180 (2)(d) and WAC 314-20-100, 314-24-190.
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PLAINTIFF'S REQUESTS FOR ADMISSION TO WSLCB
DEFENDANTS (NO. CV04-360P) - 3
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1 **REQUEST FOR ADMISSION NO. 5:** Admit that there has been no affirmative
2
3 expression by the State of Washington that all or any of the prohibitions and requirements are
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5 intended to protect small retailers from competition by larger retailers.
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7 **ANSWER:** ADMIT that the prohibitions and requirements are not intended to protect
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9 small retailers from competition by larger retailers. To the extent the prohibitions and
10
11 requirements create equal access to the market, LCB admits, otherwise LCB DENIES.
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23 **REQUEST FOR ADMISSION NO. 6:** Admit that the prohibitions and requirements
24
25 have had no significant effect on the number of licensed retailers in the State of Washington.
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27 **ANSWER:** OBJECTION to the terms "significant effect" as vague ambiguous and
28
29 undefined. DENIED. To the extent the question means that the prohibitions and requirements
30
31 do not limit the number of licensed retailers in the State of Washington the LCB admits.
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43 **REQUEST FOR ADMISSION NO. 7:** Admit that the prohibitions and requirements
44
45 are not necessary to assure what the WSLCB considers a sufficient number of licensed retailers
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47 in the State of Washington.
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49 **ANSWER:** OBJECTION to the phrase "the WSLCB considers a sufficient number of
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51 licensed retailers" because this is vague and ambiguous. DENIED. To the extent the question

PLAINTIFF'S REQUESTS FOR ADMISSION TO WSLCB
DEFENDANTS (NO. CV04-360P) - 4
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1 means that the prohibitions and requirements do not limit the number of licensed retailers in the
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3 State of Washington, the LCB admits.
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15 **REQUEST FOR ADMISSION NO. 8:** Admit that you are aware of no significant
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17 factual substantiation that the prohibitions and requirements control or reduce abusive or
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19 excessive consumption.
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21 **ANSWER:** OBJECTION to the phrase "significant factual substantiation" as vague and
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23 ambiguous.
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27 **REQUEST FOR ADMISSION NO. 9:** Admit that you are aware of no significant
28
29 factual substantiation that the prohibitions and requirements have increased the number of small
30
31 retailers.
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33 **ANSWER:** OBJECTION to the phrase "significant factual substantiation" and to the
34
35 term "small retailers" as vague and ambiguous.
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39 **REQUEST FOR ADMISSION NO. 10:** Admit that you are aware of no significant
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41 factual substantiation that, but for the prohibitions and requirements, the number of licensed
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43 retailers would be below the number you deem sufficient to serve the people of the State of
44
45 Washington.
46

47 **ANSWER:** OBJECTION to the phrase "significant factual substantiation" as vague and
48
49 ambiguous and speculative. **DENIED**
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PLAINTIFF'S REQUESTS FOR ADMISSION TO WSLCB
DEFENDANTS (NO. CV04-360P) - 5
[29040-0087-000000/Ans Req for Adm.DOC]

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1 **REQUEST FOR ADMISSION NO. 11:** Admit that you are aware of no significant
2 factual substantiation that, but for the prohibitions and requirements, abusive and excess
3 consumption would exceed the levels you deem acceptable.
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6 **ANSWER:** OBJECTION to the phrase "significant factual substantiation" as vague and
7 ambiguous. **DENIED,**
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10 **REQUEST FOR ADMISSION NO. 12:** Admit that the State of Washington has never
11 examined whether any reduction of consumption as a result of the prohibitions and requirements
12 exceeds the increase in consumption due to the subsidization of small and remote retailers.
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15 **ANSWER:** OBJECTION to the phrase "increase in consumption due to the
16 subsidization of small and remote retailers." **ADMIT** that LCB has not examined whether any
17 reduction of consumption as the result of the prohibitions and requirements exceeds the increase
18 in consumption because of the location of retailers large or small in remote areas.
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37 **REQUEST FOR ADMISSION NO. 13:** Admit that the State of Washington has never
38 examined whether any reduction of consumption as a result of the prohibitions and requirements
39 exceeds the increase in consumption due to volume discounts and temporary price reductions by
40 state stores.
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45 **ANSWER:** OBJECTION to the phrase "prohibitions and requirements exceeds the
46 increase in consumption due to volume discounts and temporary price reduction by state stores"
47 as vague and ambiguous. **ADMIT** the LCB has not examined whether consumption has
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PLAINTIFF'S REQUESTS FOR ADMISSION TO WSLCB
DEFENDANTS (NO. CV04-360P) - 6
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1 increased due to volume discounts to consumers and temporary price reductions in state liquor
2 stores. Except as specifically admitted, LCB denies the remaining request for admission.
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15 **REQUEST FOR ADMISSION NO. 14:** Admit that the State of Washington exercises
16 no direct control over the prices charged by producers of wine and beer.
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18 **ANSWER:** OBJECTION to the phrase "direct control" as undefined, vague and
19 ambiguous. DENIED See RCW 66.28.180(2)(d), 66.28.180(3)(d) and WAC 314-20-100, 314-
20 24-190.
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35 **REQUEST FOR ADMISSION NO. 15:** Admit that the State of Washington exercises
36 no direct control over the prices charged by distributors of wine and beer.
37

38 **ANSWER:** OBJECTION to the phrase "direct control" undefined, vague and
39 ambiguous. DENIED See RCW 66.28.180(2)(d), 66.28.180(3)(d) and WAC 314-20-100, 314-
40 24-190.
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1 **REQUEST FOR ADMISSION NO. 16:** Admit that the State of Washington exercises
2
3 no direct control over the prices charged by retailers of wine and beer.
4

5 **ANSWER:** OBJECTION to the phrase "direct control" as undefined, vague and
6
7 ambiguous. DENIED See WAC 314-11-085(1) and 314-52-110(2).
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11 **REQUEST FOR ADMISSION NO. 17:** Admit that producers of wine and beer
12
13 exercise a degree of private decision making in determining the prices they charge for wine and
14
15 beer.
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17 **ANSWER:** OBJECTION to the phrase "exercise a degree of private decision making in
18
19 determining the prices they charge" as vague and ambiguous. To the extent the question requests
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21 that the LCB admit that producers of wine and beer make decisions to determine that the price
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23 they charge complies with statutory requirements for price posting LCB admits. Except as
24
25 specifically admitted, LCB denies the request for admission.
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37 **REQUEST FOR ADMISSION NO. 18:** Admit that distributors of wine and beer
38
39 exercise a degree of private decisionmaking in determining the prices they charge for wine and
40
41 beer.
42

43 **ANSWER:** OBJECT to the phrase "exercise a degree of private decision making in
44
45 determining the prices they charge" as vague and ambiguous. To the extent the question requests
46
47 that the LCB admit that distributors of wine and beer make decisions to determine that the price
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49 they charge complies with statutory requirements for price posting LCB admits. Except as
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51 specifically admitted, LCB denies the request for admission.

PLAINTIFF'S REQUESTS FOR ADMISSION TO WSLCB
DEFENDANTS (NO. CV04-360P) - 8
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1 **REQUEST FOR ADMISSION NO. 19:** Admit that distributors of wine and beer
2
3 exercise a degree of private decision making in determining the services they offer with respect
4
5 to sales of wine and beer.
6

7 **ANSWER:** OBJECT to the phrase "exercise a degree of private decision making in
8
9 determining the services offered" as vague and ambiguous. To the extent the question requests
10
11 that the LCB admit that distributors of wine and beer make decisions to determine services they
12
13 offer, LCB admits, as long as the distributor complies with WAC 314-12-140. Except as
14
15 specifically admitted, LCB denies the request for admission.
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18 **REQUEST FOR ADMISSION NO. 20:** Admit that retailers of wine and beer exercise
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20 a degree of private decision making in determining the prices they charge for wine and beer.
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23 **ANSWER:** OBJECTION to the phrase "exercise a degree of private decision making in
24
25 determining the prices they charge" as vague and ambiguous. To the extent the question requests
26
27 that the LCB admit that retailers of wine and beer make decisions to determine a price they
28
29 charge, LCB admits, as long as the retailer complies with WAC 314-11-085 and 314-52-110(2).
30
31 Except as specifically admitted, LCB denies the request for admission.
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35 **REQUEST FOR ADMISSION NO. 21:** Admit that the State of Washington does not
36
37 review the reasonableness of prices charged by distributors of wine and beer.
38

39 **ANSWER:** OBJECTION to the phrase "reasonableness of prices charged" as undefined,
40
41 vague and ambiguous. ADMIT to the extent that the LCB's review of the price charged by
42
43 distributors is to determine whether the price complies with statutory requirements. Except as
44
45 specifically admitted, LCB denies the request for admission.
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1 **REQUEST FOR ADMISSION NO. 22:** Admit that the State of Washington does not
2
3 review the reasonableness of prices charged by producers of wine and beer.
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5 **ANSWER:** OBJECTION to the phrase "reasonableness of prices charged" as undefined,
6
7 vague and ambiguous. ADMIT to the extent that LCB's review of the price charged by
8
9 producers is to determine whether the price complies with statutory requirements. Except as
10
11 specifically admitted, LCB denies the request for admission.
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23 **REQUEST FOR ADMISSION NO. 23:** Admit that the State of Washington does not
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25 review the reasonableness of prices charged by retailers of wine and beer.
26

27 **ANSWER:** OBJECTION to the phrase "reasonableness of prices charged" as undefined,
28
29 vague and ambiguous. ADMIT to the extent that LCB's review of the price charged by retailers
30
31 is to determine whether the price complies with WAC 314-11-085 and 314-52-110(2). Except as
32
33 specifically admitted, LCB denies the request for admission.
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45 **REQUEST FOR ADMISSION NO. 24:** Admit that the State of Washington does not
46
47 review prices charged by distributors of wine and beer to determine their effect on abusive or
48
49 excessive consumption.
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51 **ANSWER: DENIED**

PLAINTIFF'S REQUESTS FOR ADMISSION TO WSLCB
DEFENDANTS (NO. CV04-360P) - 10
[29040-0087-000000/Ans Req for Adm.DOC]

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2
3 **REQUEST FOR ADMISSION NO. 25:** Admit that the State of Washington does not
4
5 review prices charged by producers of wine and beer to determine their effect on abusive or
6
7 excessive consumption.
8

9 **ANSWER:** ADMIT
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21 **REQUEST FOR ADMISSION NO. 26:** Admit that the State of Washington does not
22
23 review prices charged by retailers of wine and beer to determine their effect on abusive or
24
25 excessive consumption.
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27 **ANSWER:** DENIED see WAC 314-11-085 and 314-52-110(2).
28
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39 **REQUEST FOR ADMISSION NO. 27:** Admit that, except for purposes of operating
40
41 the states stores, the State of Washington does not monitor market conditions in the markets for
42
43 distribution of wine and beer.
44

45 **ANSWER:** OBJECTION to the phrase "monitor market conditions in the markets" as
46
47 vague, ambiguous and undefined. ADMIT, except to the extent to the LCB requires distributors
48
49 to comply with RCW 66.28.010, 180, LCB DENIES.
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51

PLAINTIFF'S REQUESTS FOR ADMISSION TO WSLCB
DEFENDANTS (NO. CV04-360P) - 11
[29040-0087-000000/Ars Req for Adm.DOC]

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1 **REQUEST FOR ADMISSION NO. 28:** Admit that, except for purposes of operating
2 the states stores, the State of Washington does not monitor market conditions in the markets for
3 retail sales of wine and beer.
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6 **ANSWER:** OBJECTION to the phrase "monitor market conditions in the markets" as
7 vague, ambiguous and undefined. ADMIT, except to the extent to the LCB requires distributors
8 to comply with WAC 314-11-085 and 314-52-110(2), LCB DENIES.
9
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11 **REQUEST FOR ADMISSION NO. 29:** Admit that, except for purposes of operating
12 the states stores, the State of Washington does not monitor market conditions in the markets for
13 production of wine and beer.
14
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16 **ANSWER:** OBJECTION to the phrase "monitor market conditions in the markets" as
17 vague, ambiguous and undefined. ADMIT, except to the extent to the LCB requires our
18 distributors to comply with RCW 66.28.010, 180 LCB DENIES.
19
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21 **REQUEST FOR ADMISSION NO. 30:** Admit that the State of Washington has not
22 undertaken any study to determine how many licensed retailers in any or all categories are
23 necessary to serve the public.
24
25

26 **ANSWER:** OBJECTION to the term "study" as vague and undefined. DENIED, the
27 LCB has reviewed the number of licensees to serve the public see Annual Reports for 1936,
28 1937, 1938, 1939, 1940, 1941, 1945, 1946, 1947, 1949, 1955 and Initiative Measure 171 in 1948
29 and 1949 legislation.
30
31

32 **REQUEST FOR ADMISSION NO. 31:** Admit that the State of Washington has not
33 undertaken any study to determine the effect of termination of the prohibitions and requirements
34 on the number of licensed retailers of any or all categories.
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37 **ANSWER:** OBJECTION to the term "study" as vague and undefined. DENIED
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3 **REQUEST FOR ADMISSION NO. 32:** Admit that the State of Washington has not
4
5 undertaken any study to determine the effect of termination of the prohibitions and requirements
6
7 on the extent of abusive or excessive consumption.
8

9 **ANSWER:** OBJECTION to the term "study" as vague and undefined. **DENIED**
10
11

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13 **REQUEST FOR ADMISSION NO. 33:** Admit that the difficulty of acquiring services
14
15 from distributors in the State of Washington has reduced the number of wines available to
16
17 consumers at licensed retailers.
18

19 **ANSWER:** OBJECTION to the phrase "difficulty in acquiring services from
20
21 distributors" as vague and ambiguous. LCB ADMITS, to the extent that if plaintiff prevails the
22
23 consumer will have fewer choices of wines available for consumption. **DENIED**, to the extent
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25 that Washington wineries have the ability to self distribute their product.
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35 **REQUEST FOR ADMISSION NO. 34:** Admit that the State of Washington has not
36
37 undertaken any study to determine whether it could more effectively reduce abusive or excessive
38
39 consumption by directly controlling retail prices of wine and beer than by use of the prohibitions
40
41 and requirements.
42

43 **ANSWER:** OBJECTION to the term "study" and to the phrase "directly controlling
44
45 retail prices" as vague and ambiguous. **DENIED**.
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1 **REQUEST FOR ADMISSION NO. 35:** Admit that the State of Washington has not
2
3 undertaken any study to determine whether it could more effectively reduce abusive or excessive
4
5 consumption by increasing taxes on wine and beer than by use of the prohibitions and
6
7 requirements.
8

9 **ANSWER:** OBJECTION to the term "study" as vague and undefined . ADMIT, except
10
11 to the extent Dr. Chaloupka's expert report opines that increasing taxes on wine and beer are not
12
13 necessarily effective in controlling abusive behavior. Except as specifically admitted, LCB
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15 DENIES.
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25 **REQUEST FOR ADMISSION NO. 36:** Admit that the State of Washington has not
26
27 undertaken any study to determine whether the beliefs of some at the end of Prohibition with
28
29 respect to the dangers of tied houses were well-grounded in fact.
30

31 **ANSWER:** OBJECTION vague and ambiguous. DENIED see defendants initial
32
33 disclosure "1999 Three Tier Review" and 1935 Annual Report.
34
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37

38 **REQUEST FOR ADMISSION NO. 37:** Admit that the State of Washington has not
39
40 undertaken any study to determine whether the beliefs of some at the end of Prohibition with
41
42 respect to the dangers of tied houses are valid at this time in light of changes in the economy and
43
44 the passage or interpretation of laws that protect retailers of all products.
45

46 **ANSWER:** OBJECTION vague and ambiguous. DENIED see defendants initial
47
48 disclosure "1999 Three Tier Review."
49
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51

1 **REQUEST FOR ADMISSION NO. 38:** Admit that the State of Washington has not
2
3 undertaken any study to determine whether any negative impacts have arisen from allowing
4
5 Washington producers to sell directly to retailers.
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7 **ANSWER:** OBJECTION to the term "study" as vague and undefined. ADMIT
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17 **REQUEST FOR ADMISSION NO. 39:** Admit that the State of Washington has not
18 undertaken any study to determine whether any negative impacts have arisen from allowing
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20 Washington producers to also act as retailers.
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23 **ANSWER:** OBJECTION to the term "study" as vague and undefined. ADMIT
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34 **REQUEST FOR ADMISSION NO. 40:** Admit that the State of Washington has not
35 undertaken any study to determine the effects on abusive or excessive consumption of the
36
37 temporary price reductions made available to consumers in state stores.
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39

40 **ANSWER:** OBJECTION to the term "study" as vague and undefined. ADMIT
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1 **REQUEST FOR ADMISSION NO. 41:** Admit that the State of Washington has not
2
3 undertaken any study to determine the effects on abusive or excessive consumption of the
4
5 volume discounts made available to consumers in state stores.
6

7 **ANSWER:** OBJECTION to the term "study" as vague and undefined. ADMIT
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17 **REQUEST FOR ADMISSION NO. 42:** Admit that the State of Washington has not
18 undertaken any study to determine the effects on abusive or excessive consumption of the
19
20 quantity discounts obtained by WSLCB in purchases for state stores.
21
22

23 **ANSWER:** OBJECTION to the term "study" as vague and undefined. ADMIT
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34 **REQUEST FOR ADMISSION NO. 43:** Admit that the State of Washington has not
35 undertaken any study to determine the effects on abusive or excessive consumption of the credit
36
37 extended to WSLCB with respect to purchases for state stores.
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40 **ANSWER:** OBJECTION to the term "study" as vague and undefined. ADMIT
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1 **REQUEST FOR ADMISSION NO. 44:** Admit that the WSLCB competes with
2 plaintiff with respect to sales of wine and beer to consumers.
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4

5 **ANSWER:** OBJECTION to the phrase "competes with plaintiff" as undefined, vague
6 and ambiguous. LCB ADMITS, except to the extent that the LCB sells similar wine products as
7 the plaintiff's store but does not sell very much beer. DENIES, in that the LCB market share of
8 wine has been dropping compared to private retailers share of the wine market. See December
9 2003 A Comparison of Wine Prices: State Liquor Stores and Major Grocery Chains.
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23 **REQUEST FOR ADMISSION NO. 45:** Admit that Costco would compete with the
24 WSLCB with respect to sales of wine and beer to small retailers but for the prohibitions and
25 requirements.
26
27
28

29 **ANSWER:** OBJECTION vague and ambiguous. DENIED LCB lacks sufficient
30 information as to what Costco would do in respect to small retailers.
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35 **REQUEST FOR ADMISSION NO. 46:** Admit that Costco would compete with the
36 distributors with respect to sales of wine and beer to small retailers but for the prohibitions and
37 requirements.
38
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41 **ANSWER:** OBJECTION vague and ambiguous. DENIED LCB lacks sufficient
42 information as to what Costco would do in respect to small retailers.
43
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1 DATED: August 1, 2005.
2
3

4 PERKINS COIE LLP
5
6

7 By: _____
8 David J. Burman, WSBA #10611
9 Shylah R. Alfonso, WSBA #33138
10 1201 Third Avenue, Suite 4800
11 Seattle, WA 98101-3099
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20 SANDLER AHERN & McCONAUGHY PLLC

21 By: signature approval via electronic mail
22 Michael D. Sandler, WSBA #15027
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25 Telephone: 206-346-1751
26 Fax: 206-346-1755
27 mike@sandlaw.com
28
29

30 *Attorneys for Plaintiff Costco Wholesale Corporation*
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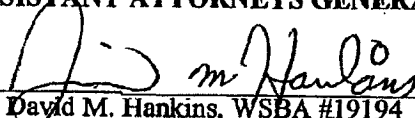
RULE 26(g) CERTIFICATION

I have read the foregoing answers and objections to these Plaintiffs Requests for Admission to WSLCB Defendants and certify that, to the best of my knowledge, information and belief, formed after a reasonable inquiry, they comply with the requirements of Federal Rule of Civil Procedure 26(g).

Dated this 1st day of August, 2005.

ASSISTANT ATTORNEYS GENERAL

By



David M. Hankins, WSBA #19194

Martha P. Lantz, WSBA # 21290

Attorneys for Defendants Roger Hoen, Vera Ing,
and Merritt Long

PLAINTIFF'S REQUESTS FOR ADMISSION TO WSLCB
DEFENDANTS (NO. CV04-360P) - 19
[29040-0087-000000/Ans Req for Adm.DOC]

Perkins Cole LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

[illegible]

) SS:

James Lee

Director of Licensing & Regulation

Carolyn M. Lawson
(Signature of Notary)



CAROLYN M. LAWSON
(Print or stamp name of Notary)

NOTARY PUBLIC in and for the State
of Washington, residing at Olympia
My Appointment Expires: 11/30/07

Comments:

2-5-04

Bob Bawensky

- points out 66.08.010

- add malt beverages - wine instead of "such
beverages." wine and beer.

RCW 42.17.310(i)(d) also talks about
enforcement; not just investigation.

After preparation; period ~~then~~

want to be able to get access to part prices.

"Except with discretion of Board"

Resp to Costco RFP
6011

L. Lee
290
DEP EXHIBIT
DATE
PUBLIC
8-11-05

Rowland

~~Phil~~

lost of control
bill on 2/21/11

George Hamrick - shipman
owner of Pyramus
the

Longest microbrewery

Then call Katie - rep
Wine Institute
call Steve Fink

951-3838

~~price point~~

prior to their effective dates.

2-6-04

Phil - "tonifier"; accomplishes what they want to
accomplish.

alerted him to Wine Institute's concern.

George Hamrick - OK w/ it.

not avail to public before they are effective

get rid post of prices

what is most efficient way to continue to check

spot checks by exception

Resp to Costco RFP
6012

~~Agreement of licensees~~

~~This bill would strengthen
new party system
allow us to better regulate~~

~~Evaluation~~

~~Important for research in regulatory
Don't expect it~~

Month 1st - wholesalers
sales reps make sales calls w/ retailers
Share 2 wks in advance
- then post

2-12-04
Cliff Jan
Phil
Randy

15th Lock-in date
Effectene date } what's diff?

conditions

post on 15th; adjust on the 18th?
are wholesalers

Correction period 10th - 15th
Exception period 16th - month end.

**INFORMATION REDACTED
ATTORNEY-CLIENT PRIVILEGE**

From: Wayt, Phil
Sent: Friday, April 09, 2004 11:49 AM
To: Lee, Lorraine; Reynolds, Randy S
Cc: John Guadnola; Bob Baronsky
Subject: Questions regarding implementation of SB 6737

As you requested, in writing here is the situation I have been made aware of regarding implementation of changes in SB 6737:

Apparently, when distributors post their prices and subsequently a posting is "kicked back" to the distributor as an error, the distributor could previously electronically look at their manufacturers posting to see what caused the error. Several examples could be an incorrect posting by the supplier, or a minimum markup error of the distributor by not being 10 percent - because manufacturer posted incorrect, or distributor is not the authorized distributor of the manufacturer because manufacturer did not correctly notify the Liquor Board, etc., etc.

For large distributors this can be a problem. One fairly large distributor called today. He said they have over 200 suppliers and post for over 4000 SKU's. By not being able to look at their manufacturers postings, they will likely call the Liquor Board (Heldt) to ask for help finding the problem.

The question: "Is it necessary that the implementation of the changes in SB 6737 apply vertically as well as horizontally?" In other words, can the goals of SB 6737 be accomplished if a distributor can look at his own supplier's postings?

Thanks in advance for considering this issue.

Phillip H. Wayt, Executive Director
Washington Beer & Wine Wholesalers Association
P.O. Box 1319
Olympia, Washington 98507
Phone: 360-352-5252
Fax: 360-943-9784
E-mail: phil@wbwwa.com

L. Lee
291
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CAL. " RANTE
NOTARY PUBLIC

8-11-05
Resp to Costco RFP
6085

9/13/2004

TX245_030

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Dave Burman's voicemail messages 1-14-04
Comfortable with LCB saying at BAC meeting

Ltr

- Acknowledge state rec'd letter from Costco, feel free to share with anyone since already made avail under public records act
- LCB staff and AGO has examined letter

Meeting

- Acknowledge had meeting to make sure understand Costco's position understood and to understand more what Costco believes to be inconsistent in WA law with federal laws.

Costco's Intent/Position

- Has decided to sue, hasn't backed off from that.
- But Costco made it clear to LCB it is not trying to eliminate distributors or harm competitors. It is interested in knowing what if anything is wrong in letter factually or legally.
- Burman believes LCB should acknowledge Costco has "strong arguments and there is a risk that the lawsuit could go against state. As result, staff has looked at statutory changes would have to be made if Costco were to prevail.
- Costco doesn't believe it makes sense for State to defend if the stakeholders agree with Costco or don't care about the change to avoid Costco's argument about illegality of statutes.
- This would be a good way to introduce idea why stakeholders' interests would be important to LCB and to Costco.
- Costco is reluctant to accept legislative compromise short of relief it would seek in court. Or to undertake an effort to form a legislative coalition. Costco has received limited input from some interested parties.

Contact with stakeholders:

- LCB asked and Costco agreed it is open to hearing from anyone at BAC meeting about whether there is something wrong about Costco's legal position or as to why proceeding to litigation is unwise or unnecessary.
- But doesn't want LCB to suggest Costco will not be seeking any group out. Understands the distributors org is the one who would fight; probably the limit who would contact. Very uncomfortable talking to competitors.
- If want to communicate with Costco, stakeholders should do it quickly.

Resp to Costco RFP
6093

h-hee
297
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CALIFORNIA RANTE
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8-11-05

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- Unless some compromise by LCB, Costco will initiate lawsuit in the next 4-6 weeks. Therefore, anyone with input should get it to Costco.
- Seems to Burman that there is "Strong reason to believe that the statutes are unconstitutional," doesn't make sense for the Board to defend them unless there is some public policy reason to do so or stakeholders insist on it. In which case, Costco would be interested in hearing from them.

Phone call w/ Dave Burman 1/15/04:

Who would be POC for Costco? Dave Burman, he plans to contact Bob Baransky. I told him I would pull Phil Wayt and let him know that Costco would be open to hearing from his association.

What if asked about statutory changes proposed on Jan 5? Doesn't want me to share. If Costco met with Phil's group, they might share a checklist of things they would find most offense but would not the proposed language share with us.

4-6 Weeks: Clarified that this is not a deadline for us; giving us a month to evaluation, if our answer was "no" to proposal, then would be looking to proceeding to litigation. If parties were open to discussing any proposal, then would not be going to court in that timeframe.

INFORMATION REDACTED
--WORK PRODUCT--

From: Cohen, Leslie [mailto:CohenL@dsmo.com]
Sent: Wednesday, June 09, 2004 8:11 AM
To: Baronsky, Bob
Cc: Graff, Howard; Skakel, Deborah
Subject: FW: Pdf File

Bob,

Attached are pages from the CCH Liquor Control Law Reporter for RCW 66.28.180, price and hold. As I read it, it states that the existing provision (Ch. 269, Sen. Bill 6737), effective 3/31/04, remains in effect only until 12/31/04, and that the amendment we discussed yesterday (Ch. 160, Sen. Bill 6655), which contains the former price and hold language, becomes effective 1/1/05. In other words, as CCH interprets the sequence of legislative acts, Ch. 160 reverses the recent amendment and reverts to the pre-Ch. 269 price and hold language.

This is not good for the good guys (us), gives Costco ammunition we do not want it to have, and makes corrective action an urgent priority.

Feel free to call if you need to speak to me. Otherwise, I'll wait to hear from you about your talk with our lobbyist.

Thanks,

Leslie

-----Original Message-----

From: Chanin, Penny
Sent: Wednesday, June 09, 2004 10:36 AM
To: Cohen, Leslie
Subject: FW: Pdf File

-----Original Message-----

From: PDFDispatch2
Sent: Wednesday, June 09, 2004 10:32 AM
To: Chanin, Penny
Subject: Pdf File

<<Law Report.pdf>>

L Lee
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8-1105

Resp to Costco RFP
6303

9/13/2004

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Dickstein Shapiro Morin & Oshinsky LLP
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Resp to Costco RFP
6304

9/13/2004

TX245_034

Washington State Liquor Control Board Business Advisory Council
Meeting Minutes
April 29, 2004

- **George Hancock:** Would like to see LCB do same thing for breweries as they do in wineries. Beer has a large impact. LCB is the venue for small breweries and wineries who can't get their products out in other venues. - Roger Hoen stated that they're working on shelf issues and coolers, etc. It is an issue that LCB is addressing in the future. Pat Koehler talked about LCB's mission in the strategic plan isn't posted and reflected in stores, but they're working on developing customer service through retail and have changed mission statement to reflect that. Need to get it out to stores. Clif Finch stated that from the grocery industries perspective a price differential of 5- 20% difference is not fair in the grocery industry. He applauds the study on focusing on the Washington wine industry, however, pricing is a concern for them to compete.
- **TK Bentler:** Does private sector or state have Washington wine stores in regards to airports? If not why? Steve Burns stated that they tried to do that. The brands just weren't big enough to support the volume needed at sports venues, airports, etc. They were very involved in the last airport bid, but just couldn't do it. Chris Liu said that LCB recognizes that sometime in the future we could be that big, but need to develop an infrastructure in order to move ahead to accomplish this and other things like concept stores, etc. Roger Hoen said the Board would continue to work stakeholders on this issue. Rick Garza stated that the LCB wants to bring back Dave Pavelchek to talk to stakeholders about the report and concerns they have regarding the data of his pricing survey. *(Clif Finch would like a conference call prior to that. He also needs recording from the last time Dave Pavelchek presented his information to the Board.)*

Comments from Merritt Long

Merritt spoke to the BAC about LCB's perspective and history of how we got to here. The Board needed to assess where we were and where we wanted to go and agreed they needed an outside perspective and help. Spirits is 90 percent of business, yet the shelf space is more than 10% for wine. Grocery stores and wine stores were concerned that we were cheapening the costs of wine. Wineries look to LCB to get their product out. If they don't have the LCB how do they sell their wines? We are all in agreement on Washington products needing to be better represented (only 10-17% of wines are sold in Washington). Pricing is the main topic that all parties need to come to agreement/solution on. The LCB encourages stakeholders to keep working with the LCB to solve these issues.

Licensing and Regulation Update

Lorraine Lee spoke regarding COSTO and it's lawsuit against the LCB. She spoke on the history of the suit, and where we're at in the process. The lawsuit is against the LCB as well as individuals in the agency, and prosecuting attorneys office.

Luncheon Speaker

The luncheon speaker and host for the meeting was Tom Hedges from Hedges Winery. He spoke about his family history and their winery, from its beginnings to the present and it's fit in today's world.

During the lunch hour, Merritt Long, on behalf of the LCB, presented a gift of appreciation to Steve Burns who is leaving the Washington Wine Commission and returning to California.

2005-2007 Strategic Plan and Budgeting Scheduling

Pat Kohler presented a summary of the LCB's Strategic Plan. She spoke on the agency's mission and goals, and budget and decision package timelines. She then highlighted the areas the plan asks the state to partner with LCB:

- Creating strategies to reinvest portions of the revenue earned back into the agency business operation.

L. Lee
294
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8-11-05

Resp to Costco RFP
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RESPTOCOSTCORFP0687

Washington State Liquor Control Board Business Advisory Council
Meeting Minutes
April 29, 2004

- Recovering costs related to increased need for regulatory and public safety services and growth in number of licensees.
- Fully funding the retail business plan.
- Improving core technology operations.
- Investing in staff training -- all levels.
- Funding for HR support functions to improve recruitment and retention.

The plan will be available to everyone on the internet sometime the first week of May. The dollars have not been fine tuned yet. LCB believes the vast majority of moneys they are asking for will be generated through revenues created in the agency's decision packages--not trying to take it from the general fund. There are a lot of opportunities to generate revenues. Merritt Long stated LCB still has a lot of internal processes to go through before they can come up with firm figures. It's hard to comment on at this time. Rick Garza added that as they get figures and approval by the Board, they would work with stakeholders.

Questions from BAC members:

- **George Hancock:** What areas do you see those increased growth coming? Looking to increase 8% in spirits.
- **George Hancock:** Regarding a comprehensive pricing strategy—are you looking at all costs associated in implementing? We are now, such as when opening new stores, did not take into consideration that there are associated costs unasked for in doing business. Merritt Long indicated that the LCB is trying not to have price increases in the next ten years, but without being able to see actual growth figures in the future, can't guarantee that prices won't need to be increased. LCB wants to fund through growth, not price increases. Vera Ing also indicated this is a proposal by Senior Management and the Board is considering, but it's not set in stone.
- **TK Bentler:** Growth in market share? - Chris Liu stated that the liquor stores are a flat line; population goes up at 33% increase in 10 years. The last 20 years have had the same amount of stores. There's been no increase, although there's been a huge increase in population. LCB is looking to add a controlled number of stores to handle growth. Working closely with stakeholders in the process.
- **TK Bentler:** LCB should look at co-location—it seems to be where America is heading—to make it more convenient, to up sales. Chris Liu answered that the LCB is looking at co-location and side-by-side location. *(TK has people who would like to discuss this issue the LCB staff.)*

Legislative Update

Rick Garza touched on the 2004 bills affecting the agency that passed the legislature and were signed by the Governor. Those bills included:

- SHB 2685 - agency request legislation to allow new US military ID cards that have imbedded, digital signatures to be accepted as proof of age for liquor purchases;
- ESB 6737 - which addresses concerns regarding beer and wine price postings;
- HB 2794 - which allows licensees to pay for their liquor purchases with a debit or credit card;
- SB 6480 - allows Washington agricultural state and county fairs to, once a year, count a multi-day fair as one event for the special occasion licensing.
- SB 6655 - this bill allows the LCB to set the certificate fee at a level that will allow LCB to cover the costs of administering this program
- SSB 6584 - allows restaurants with a caterer endorsement to cater on a winery's premises.

Rick also spoke about the approved decision package for the placement of cameras in all the liquors stores (supplemental budget). He also talked about the future of LCB. He recognized that BAC members and others worked hard at getting Roger Hoen confirmed in the Senate. Merritt Long talked briefly about the price posting

Resp to Costco RFP

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RESPTOCOSTCORFP0688

Washington State Liquor Control Board Business Advisory Council
Meeting Minutes
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bill--recognizing the work of those involved in getting the bill through the legislature and acknowledged the bill would not have happened without the governor's help as well.

Rick also quickly touched on the Sunday Sales bill that did not pass this year, but it is not a dead issue and will be looked at again in the future.

Business Advisory Council Member Forum: Legislative Wrap Up

Gene Vosberg - Wanted to thank LCB staff for their help and support in the passage of two bills --HB 2794 Credit/Debit Cards and SB 6584 Caterer Endorsement bill.

Clif Finch -- They're still looking at a wine tasting bill for next session.

Steve Barns - Talked about WSU funding for viticulture school, but weren't active in the legislative session. The Washington Wine Commission is supportive of Sunday sales. They support all aggressive consumer legislation.

Don Campbell -- They're looking next year to see bills that allow stiffer penalties for underage purchase of wine.

Andrew Baldonado -- The Beer Institute is just concentrating on promoting sales in Washington

TK Bentler -- They will oppose Sunday sales if it comes up again. Looking at strategic plan and still have question about airport wine stores. Market is changing and looking for way to survive. See bills like Sunday sales as a threat to survival. Also talked about MAST training and LCB looking to increase training. Might need to look at structure. They're happy to help engage in legislative efforts. He was asked if stores are going to oppose the wine strategy? TK said he would need to talk to his Board - can't answer that question at this time.

George Hancock -- He echoed Clif on retail sampling. Also concerns because breweries increase sales every year and can't make money because of excise taxes, and all other rising costs.

Molly Howell -- Stated that Sunday sales is a key issue for DRAW. They support it and will continue to work with others to help get it through.

Phil Wayte -- They're fearful of a tax battle in the next legislative session. Asked Rick Garza if legislators are attempting privatization bills next year. Rick said not at this time. Phil then asked if co-location requires a statutory change. Rick didn't think it does.

Mark Gorman -- DISCUS stands with the Beer and Wine Wholesalers to resist tax increases. Sampling/tasting is of interest to them, as well as Sunday sales.

Retail Business Plan

Chris Liu presented information regarding the LCB's Retail Business Plan and how it concentrates efforts to address the agency's Strategic Plan goal to maximize revenues to the State's taxpayers. It speaks to our balanced mission of providing control of product while generating increased revenues to the state. (Clif Finch asked Chris Liu to put them down as very interested in the Open 2 Concept Stores).

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RESPTOCOSTCORFP0689

TX245_037

**Washington State Liquor Control Board Business Advisory Council
Meeting Minutes
April 29, 2004**

Questions from BAC members:

- **Chf Finch:** Regarding the collective bargaining agreement - Has LCB provided input as regards to interests of the agency? - Pat Kohler responded saying we are definitely sitting down and talking to unions and bargaining units and LCB is definitely participating and sharing concerns about our needs in a business standpoint.

Proposed Education Strategy

Vera Ing talked about the proposed education strategy. The Board's activities regarding education include talking to other states that are leading in this area. They have had several speakers present to the Board to talk about the issue of education that relates to areas in enforcement, college communities, etc. There's a real need to partner in developing an education strategy and a need to develop an education council. There is also a need to start targeting portions of drug and alcohol abuse funding for education and training. (There is only \$150,000 earmarked for education in schools across the entire state of Washington.) Other areas of interest are:

- Developing a kit that speaks to the problems that can be provided to schools.
- Contact with coalitions on a regular basis to keep the issue moving forward.
- The Hammer - need emphasis on violations.
- Working closely with local enforcement on alcohol education.
- Building a Cooperative/Coalition.

These are the outcomes and observations of the Board. More and more when talking about liquor advertising, or when issues come up regarding prevention, the community comes to LCB to ask what is the board going to do. It's in statute that the board is to create an education strategy. LCB is working with the College Community Coalition (WWU - Bellevue) and others to build a cohesive plan. There's a lot going on in the state, and LCB doesn't want to waste time and dollars duplicating what is already being done. LCB's main goal is compliance; but, they are also looking at getting strong media program/push to get the message out there. LCB doesn't have a decision yet as to where they're going and how they're getting there. But may go forward to strengthen the statute to create the Education Council. The states that are successful have partnered with folks like BAC members.

Questions from BAC members:

- **George Hancock:** How do you quantify success? Merritt Long's answer was that we measure success based on what we've learned by the presentations from outside folks regarding what's been working/not working. The Board wanted to come to BAC and share some ideas to develop what they think success is. Roger Hoen stated that what LCB wants in the early stages is to get the BAC's input to come up with a balanced useful input, but are not making decisions today. Once they get more input, they will inform BAC members which direction they're going and the member's information will be solicited.

Business Advisory Council Member Forum: What is your industry doing in alcohol education? What are some the possible key leadership roles that the LCB should be involved in: How could you best join the LCB in this strategy?

Andrew Baldonado - Indicated they're working the legislature (all united in our concerns about underage drinking). They will be at \$500,000 amount in cost of promoting safe drinking. He then introduced Sasha ??? from Anheuser-Busch speak on Anheuser-Busch's efforts in responsible drinking/education programs and their efforts against underage drinking. She mentioned the different advertising blitzes to promote responsible drinking. They have a statistician that monitors through stats to see if a campaign is working or not. Besides education programs they outreach partnerships with enforcement groups, etc.. to educate the community to be

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Washington State Liquor Control Board Business Advisory Council
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proactive instead of reactive. They use the news media to let the community know what they're doing and how they're giving back to the community. They have four community-based programs: 1) responsible drinking, 2) underage drinking, 3) drunk driving, and 4) college environment. They have server training; designated driver programs (since the program started 20 years ago over 122 million people have either been a designated driver or been driven home by one); family talk about drinking (designed to help prevent underage drinking - parents are the number one influence in a child's life to decide whether to drink or not); college talk (a guidebook for parents with college age students); operation ID (year long programs in the community that support efforts - point of sale promotion that encourages checking IDs.)

Gigi Burk then took over for Crown Distributing Company sharing what Crown Distributing does in developing alcohol education programs in our community. She talked about Crown's efforts with the Mariner's AAA team (Everett Aquasox) to support and emphasize responsible drinking and designated drivers. Talked about Crown's involvement in the Snohomish County DUI Task Force, the summer beer garden's designated driver program, their family talk program, Everett Silvertips Hockey Good Sport Program, etc. Crown Distributing is always looking for input from the community for new ideas and programs. Gigi extended an invitation to the BAC members to attend one of their school events and will try to set something up in the future.

Very positive response from the BAC members on Sasha's and Gigi's presentations. Vera Ing indicated that the LCB should do something on their web page to list all these programs. Clif Finch asked about the promotional materials put out in the aisles of grocery stores etc. There doesn't seem to be a systematic utilization of the media. Sasha indicated that some wholesalers choose to put it on their products and some don't. Anheuser-Busch is working to get all wholesalers to promote the effort.

Mark Gorman - Right now DISCUS is taking a different approach. The medical field has little in the way of education programs, and they are working with physicians to be able to speak to their patients intelligently about alcohol issues. They also developed an alcohol education kit for physicians (DISCUS is willing to work with LCB to get the information out to Washington Physicians). They also developed a standard drinks teaching tool (includes a CD ROM). They are working with groups to deal with college drinking issues. One of the big issues is sale of alcohol to minors (where do the kids get their alcohol--65% from family/friends). On 2000 college campuses they use the CD Rom as a learning tool, along with several other programs. They're encouraged that the industry is getting involved. They recognize that not much can really be accomplished without involvement by industry as well as all other groups, especially on the underage drinking issue.

Molly Howell - DRAW uses a lot of DISCUS' information and are very impressed by the way the LCB works in educating the public regarding underage drinking problems. They are willing and happy to be involved in LCB's efforts.

TK Bentler - Indicated there are a lot of programs by a lot of groups out there. Thinks that if there's a policy to have it all under one agency, to coordinate efforts by all involved to be sure that the best things are being done. Wanted to know how do we tie this all together? Who is best to do this? Thinks coordination helps to sell ideas. He also indicated there needs to be set performance standards and a way to measure success. Should this be the LCB? Training is important to them in the C-Store sector. Should there be training for retailers - voluntary? mandatory? Maybe focus on problem areas and make them mandatory, and leave the other areas as voluntary.

Phil Wayt - He goes to different markets and different environments working on responsible drinking programs. Mark Gorman asked if the legislation (education council) encompasses coordinating with other committees, education programs? Roger Hoen indicated that the LCB needs more input from others on what role is needed and how it relates to the retail-side and enforcement-side; and do we reconcile all needs? He also indicated that we need to communicate better with legislators.

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TX245_039

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George Hancock - The small brewers are community people and work closely with other members of the community to do what they can with what education programs are out there. He wonders if the 21-age limit is right? If it's lowered and they're supervised better, would it eliminate some of the unsupervised drinking (i.e., keggers, etc). Should we study what other countries do in regards to youth drinking (although industry would not be looked upon well by trying to promote a younger drinking age)?

Cliff Flach - WFI is especially busy right now regarding collective bargaining, so that's where their efforts are right now. However, they are two key issues they working legislatively: point of sale and advertisement/displays. Otherwise they are not overly interested in other issues. There is an interest by the shift in moving into health issues, but there's no link in involving education programs. The retailers need to do more point of sale advertisement on responsible drinking. They say if the wholesalers provide something, they'll do it. We need to influence them to look at programs/advertising that will work well in grocery stores.

Gene Vosberg - Mandatory Alcohol Server Training - they started the program in 1998 and are still strongly involved in this program. Their role is to work with LCB to make sure that our servers in our establishments are well trained and have an awareness of the responsibility they have. The program is under review right now by the board. Looking at how the training can be improved. They're getting feedback from trainers about have to be trained again, but WRA is being proactive in the need for this to be done. One of the things needing to be done in partnership with LCB is to formally do media blitzes on a regular basis. WRA wants to get out there and help their members with compliance checks and are about ready to get that started. Also want regular use of a sale and service policy - making servers sign a pledge so they understand seriousness of efforts

Don Campbell - Talked about Safeco Field's Good Sport program--a comprehensive action plan for influencing fan behavior. Can't stress enough the importance of coordination. Large facility operators need to emphasize that education needs to start with their employees (all their employees). They need to be armed with tools that can help them get the information out, and to find enough ways to repetitively get the word out and to educate staff. Need more in talking about delayed effects of alcohol, and to build a comprehensive program that works. It's a mistake for an operator to be given a license if that licensee is not willing to participate in educational programs. There needs to be something done that guarantees licensee compliance in education -- if not there should be enforcement citations. Keeping focused on our mandate on enforcement and education is important. Would like to see budget to allow long-time officers to be involved in more education programs (schools, etc.)

Roger Hoen - It seems that people will go through all the processes to check ID, and then still sell to people whose IDs show they are not 21. There's a need to put an emphasis on checking closer. Phil Wayne indicated another problem is false IDs. Andrew Baldonado asked if Washington State has graduated licenses (if you get caught drinking you lose your privileges)? What about a scan system that would check the ID's? Chris Liu indicated that he had just gotten back from a seminar that showed that barcoding can be duplicated. So nothing is fool proof.

Rick Garza - Asked the BAC members what they felt was the most effect program in dealing with underage drinking involving parents as educators. Gigi Burk indicated there are materials out there. You need to implement programs in the retail/wholesale arena. Andrew Baldonado said that it's responsibility from child, to parent, etc.

Rick Garza - Asked the members if they've been involved in grants or provided funds to agencies like the LCB to develop education/advertisement regarding underage drinking? Gigi Burk indicated they do education for parents to educate their children and to be responsible. Andrew Baldonado was not familiar with any state or community funded programs in any state to would do that. Mark Gorman said the Ad Council is inviting industry to work on developing advertising. Looking to gear ads more toward parents. Rick Garza indicated

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there are some programs out there that are geared toward getting the message out to community and into the homes.

Vera Ing – She wanted to take this time to thank BAC members for their support of the LCB their willingness to lend support to make our efforts work.

Merritt Long – Also thanked the BAC. He also acknowledged Vera for her participation in getting the education council started, and Roger for his involvement in education efforts. He wanted to reinforce that the Board is equally committed to the effort, and as they hear from other groups they will be sure to keep the BAC members informed.

Next Meeting and Future Meetings

Board Member Roger Hoen indicated that the next Business Advisory Council meeting will be held July 8, 2004, with Pyramid as the possible location.

Meeting adjourned.

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TX245_041

Lee, Lorraine

From: Nakamura, Kent (ATG) [KentN@ATG.WA.GOV]
Sent: Thursday, December 04, 2003 4:26 PM
To: 'Burman, David J.-SEA'
Cc: Lee, Lorraine; Long, Merritt D; Garza, Rick J; Moran, Linda (ATG); Battan, Shirley (ATG)
Subject: RE: Meeting on Dec. 8, 1 pm, Bank of California Building, 900 4th Ave., Seattle

Dave, we're anticipating and planning on a more informal discussion. It's not to debate the merits of the points but to dialogue on what solutions and proposals Costco has to suggest to the LCB. As you know, these provisions are in statute and Costco is one of many stakeholders that has interest in these matters. I suspect it's too late for processing agency request legislative proposals but it is probably never too late if stakeholders, the Governor, etc., are on board and there is a legislator willing to sponsor legislation before the session ends.

Re Washington wineries, I understand that presently a Washington winery can sell product of its own production either directly to retailers or to a Washington distributor. They have to post prices either way, but the prices could be different. Once they post a price to retailers or distributors, they have to sell at that posted price to all retailers or distributors for that month. The winery is required to add the 10% markup.

There has been a similar effort to not "up-play" this matter but as I believe I mentioned to you before, LCB staff and I did informally meet with two representatives from the wholesalers association to discuss Costco's letter, particularly since it was that group that apparently initiated getting the disputed provisions into the RCW. Like our meeting on Monday with Costco representatives, staff wanted to get input from stakeholders that may have a direct interest. Costco's letter is otherwise a public record and is thus subject to public disclosure requests, and any consequent media highlighting of this subject has not been by the LCB. As I mentioned to you, the LCB was appreciative of your cooperation and, also, appreciative of being able to sit down with you and your client, and has tried to demonstrate good faith by not unnecessarily raising visibility. The Weekly person was referred to the AGO's media relations spokesperson, who has a copy of the letter, and in speaking to the AGO's spokesperson, I mentioned that we would be meeting for further discussions on Monday.

We look forward to seeing you on Monday. Deputy Attorney General Shirley Battan will also be attending since her conflict has cleared.

-----Original Message-----

From: Burman, David J.-SEA [mailto:DBurman@perkinscole.com]
Sent: Wednesday, December 03, 2003 5:00 PM
To: Nakamura, Kent (ATG)
Cc: Kondo, Tina (ATG)
Subject: RE: Meeting on Dec. 8, 1 pm, Bank of California Building, 900 4th Ave., Seattle

Besides myself and John Sullivan there will be three Costco business people: John McKay, Deb Cain, and Greg Kulczyk. Do you want us to be prepared to make any sort of presentation, or are you anticipating a more informal discussion? Should we try to work out an agenda in advance?

Are we correct in assuming that it is too late to get a legislative proposal in the queue for the next session even if the Board were inclined to do so? If a Washington winery sells directly to some retailers does it have to post those prices? Whether or not they are posted, can such a winery charge different prices to retailers than to distributors? Or than its distributors posts for charging to retailers? Are such wineries required to add the 10% markup?

12/4/2003

Resp to Costco RFP
5687

DEP EXHIBIT 295
CA. STATE PUBLIC
8-11-05

RESPTOCOSTCORFP5687

Also, we are starting to get lots of press inquiries. We're trying to duck those, and to downplay things. We were told that "the distributors" have already met with the agency about our letter. Any truth to that? Do you have any written submissions from the distributors or others that relate to our letter? The reporter for the Seattle Weekly has somehow learned of Monday's meeting. We were also asked if we had received a formal response to our request for help from Tina. Our position is that only the AG's Office can address that question and that we continue to hope that we will get help.

Finally, assuming that this has to go to litigation, it is important to me and to Costco that we not be acting under any misapprehensions as to what the facts and law are. Is there anything in our letter's interpretation of the regulatory regime that is incorrect? For example, are we correct that state law does not require exclusive distribution, only distribution, and that the state does not subject its own liquor stores to the same requirements that Costco faces? Do you think we've misinterpreted any of the antitrust and preemption precedents?

-----Original Message-----

From: Nakamura, Kent (ATG) [mailto:KentN@ATG.WA.GOV]

Sent: Thursday, November 20, 2003 10:43 AM

To: Burman, David J.-SEA

Cc: Moran, Linda (ATG); Long, Merritt; 'Lee, Lorraine'; Garza, Rick

Subject: Meeting on Dec. 8, 1 pm, Bank of California Building, 900 4th Ave., Seattle

Dave, how about 1 pm on the 8th here at the Seattle AGO? We will be meeting in conference room 2295, but everyone should check in on the 20th floor first and reception will then direct you to the 22nd floor. As I mentioned, my division chief, Linda Moran, will attend as well as Chairman Long, Director of Licensing Lee, and Deputy Administrative Director Garza. I understand it will be you and two or three Costco individuals, including in-house counsel Sullivan. Thanks all.

Resp to Costco RFP
5688

12/4/2003

RESPTOCOSTCORFP5688

TX245_043

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WASHINGTON STATE LIQUOR CONTROL BOARD

Issue Paper

Costco Update

Date: January 21, 2003

Presented by: Lorraine Lee, Director, Licensing & Regulation Division

Synopsis of January 9 Meeting

David Burman, Costco's attorney, met with AAG Nakamura and Lorraine Lee to share Costco's proposed statutory changes. This was provided at LCB request to better understand what Costco believes need to be changed to address the concerns raised in its letter.

Costco's Position: Costco believes that the statutory provisions being challenged are unconstitutional. Burman stated that Costco is reluctant to accept a legislative compromise less than what it would seek in court, which is enjoining LCB from enforcing the regulatory controls mandated in statute.

Challenged Controls and What Costco Wants:

- 1) Ban on quantity discounts Costco wants to buy directly from producers in large quantity at discounted prices.
- 2) Minimum 10 percent markup required for distributors Costco wants to be able to pass along discounts to its customers.
- 3) Ban on warehousing by retail sellers Costco wants to take delivery of and store in its own warehouse wine and beer products, instead of accepting delivery at its stores as currently required by law.
- 4) Price posting by distributors Costco wants the market to set the price.
- 5) Ban on credit purchases by retailers Costco wants to purchase wine and beer on credit like it does all its other, non-alcohol merchandise.

Effects of Costco's proposed statutory changes: In general, the proposed changes would eliminate all of the controls and eliminate the role of beer/wine distributors. Specifically, the changes would:

- Remove #1 & #5: the ban on quantity discounts and ban on credit extensions. (Licensing MIW staff believe these two prohibition are the most important to keep to prevent large retailer advantages.)
- Remove #3: the requirement for delivery to licensed premises, therefore allowing any retail licensee with more than one location to warehouse. Lifting this ban would also give large retailers an advantage over small.
 - Costco is one of 18 licensees with 20 or more locations. Another 10 licensees have 10-20 locations.
- Remove #2: minimum 10% markup requirement for distributors.

Costco.Jan 21.IP

Resp to Costco RFP

6332

L. Lee 296
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CA. ANTE
NOTARY PUBLIC

8-1105

- **Modify #4:** retains the posting requirement but removes all the controls that ensure uniformity of prices statewide to all retailers. Under the proposal, a distributor could (a) give quantity discounts, (b) sell a price lower than what is posted, (c) give special prices to certain retailers.
- **More rulemaking:** Give LCB express rulemaking authority to promulgate rules that define and prohibit practices that "substantially lessen competition or tend to create a monopoly."
 - This is a federal standard used by the Federal Trade Commission.
 - This is a novel approach to alcohol regulation. Preliminary legal research shows that only Florida laws use this standard in another context.Providing this express rulemaking authority shifts the responsibility to the Board to define which practices are anti-competitive and should be prohibited by rule. This would have substantial impact on Licensing, Enforcement and PLMR staff.
- **2nd Tier Impact:** Allow retail licensee to buy directly from an out-of-state manufacturer or importer. Washington's three-tiered control system requires out-of-state producers (i.e. breweries/wineries) to sell to distributors (wholesalers) who then sell to retailers. The proposal would basically eliminate the distributor tier.
 - **Tax implications.** It also creates a huge tax loophole. The liter tax on wine and beer is paid by the first distributor to receive the product for sale in WA. Currently, licensed importers can only sell to distributors; importers do not pay taxes on the products they import. Therefore, if retailers were able to buy directly from importers, then the point of taxation is skipped.

Impact on policy interests & intended effects. As stated in RCW 66.28.180, the policy interests are to promote

- the public's interest in "fostering the **orderly and responsible**" distribution of malt beverages and wine towards "**effective control of consumption**"
- and "**fair and efficient three-tier system**" of distribution

Intended effects of the state's control system:

- to ensure alcohol prices do not drop to levels that would encourage over-consumption, i.e, prevent sale of "cheap booze".
- to provide a uniform pricing structure that does not favor large retailers over smaller ones. (Undoubtedly Costco's proposal would undermine this particular interest.)
- to balance public safety/health concerns with public demand for alcohol products.

Costco is awaiting LCB response. Burman recognizes that it will take a little time for LCB staff and Board members to review its proposal and formulate a position, about a month. Costco will expect an answer by Feb. 6.

Resp to Costco RFP
6333

9.26.03

reg history -

included in omnibus bill, by amendment

Bill report - lots price pointing but no explanation

Page 6 concerned us were going to get sued when

One sued over price pointing.

Resp to Costco RFP
6090

L. Lee
297
DEP EXHIBIT
CA: 11-205
NOTARY PUBLIC

8-11-05

10-31-03
Rick G, Phil W
Kent, RR, Bob Lawrence

Costco Anti-Trust Claim

Karl's Q:
Group from
up in Assoc
to sit at table
in discussion
WBWWA -
13 m bd governor

REGULATORY CONTROLS CHALLENGED BY COSTCO

See pages 6-9 of Costco's letter

1. **Ban on quantity discounts**
RCW 66.28.180(2)(d); WAC 314-24-190(7); WAC 314-20-100(7)
& other discounts WAC 314-12-140
2. **10% minimum markup on wholesale prices** - Key
RCW 66.28.180(2)(d); WAC 314-24-190(7); WAC 314-20-100(7)
3. **Delivery to retailer's licensed premises**
RCW 66.28.180(2)(h)(ii); WAC 314-24-190(12); WAC 314-20-100(12)
4. **Price posting** (prices posted monthly on LCB's electronic system & distributors must sell at posted prices to all retailers)
RCW 66.28.180(2); WAC 314-24-190; WAC 314-20-100
5. **Cash on delivery** (distributors cannot extend credit to retailers)
RCW 66.28.010; WAC 314-13-015; WAC 314-20-090
tied house

The state's policy interests as set forth in **RCW 66.28.180**

*Stated policy
of state
RCW 66.28.180
small retail
Neighborhood
Stores -
OK - PB, Mike
Carr*

Intent. This section is enacted, pursuant to the authority of this state under the twenty-first amendment to the United States Constitution, to promote the public's interest in fostering the orderly and responsible distribution of malt beverages and wine towards effective control of consumption; to promote the fair and efficient three-tier system of distribution of such beverages; and to confirm existing board rules as the clear expression of state policy to regulate the manner of selling and pricing of wine and malt beverages by licensed suppliers and distributors.

Questions for WBWWA:

- Input on how effective each control has been in promoting the stated policy interests? What are the effects if eliminated?
- How rank controls in order of importance to WBWWA membership?
- Are there alternative controls that LCB should consider?
(E.g., Oregon system)
19 distributors in Ore - ↑ consolidation

Electronic system -
distribution allowance →

Baunsky's suggested
Costco, Oct 28, 1P

Reefing up of regulators -
① Certification of min markup
② hold public hearing
③ Cost reg for foreign products

Resp to Costco RFP

6078 REP EXHIBIT

CA: 298

DATE

STAFF PUBLIC

Q-1105

1006.

Effectiveness showing \neq showing of state action

10% markups not in any of price setting/fixing cases.

There are cases that have found min markups rule =

state action
stabilizes price \rightarrow rate of return

NY; Conn - alcohol \rightarrow includes US Supreme Court

10% markups \rightarrow will satisfy active supervision

requirement. ^{could} Support price setting requirement

Must look at this as a "package"

e Commerce Committee - issue raised about foreign products

COA can be required.

* \rightarrow

\uparrow regulation - require COA holders/suppliers

require "certification" that price 10% above production

under penalty of perjury

Random enforcement. \rightarrow practical

Maryland Case

no min markups - it had it, could have been saved

summary judgment decision

Jan dec expected.

borderline battle - whether min affect consumption.

3. Belong to licensed producers

if eliminated \rightarrow "devastate" 2nd tier & also impact small businesses

Other state with more effective system

One case mentioned that ATSC

Had public/periodic hearings 4 x yr.

to get input to reexamine how we're meeting the charge

Resp to Costco RFP
6079

Phil's Q: What are the Board's decisions?

* Kent Ans: What is Wisconsin's intent with new

input w/in jurisdiction of local govt.

200 floor new

\rightarrow licensing statute

US imports of foreign products need to have COA.

12-8-03 Mtg w/ Costco

Dave Burman

John Sullivan - In-home Counsel

Greg Lutzke -

John McKay - GM NW

Deb Carr - Merchandising

on menu

not doing 3-tier system
didn't system healthy in other states

Provisions -

#1 - quantity based

#2 - price point related

#3 - alternatives to cash

get benefits of good credit

#4 - warehouse

#5 - minimum markup

markup 4.7% too high

#6 - deal directly with out-of-state vendors

Law has changed in 20 yrs

Resp to Costco RFP
6096

remove from statute

→ Tell leg - eliminate restrictions, ^{say good day} hard to defend

Understands there are other stakeholders, but up to
them to defend Burden on industry to defend

Hopes anti-trust dir agrees w/ them

DEP EXHIBIT 299
CAI PANTE

NOTARY PUBLIC
D 11/15

John McKay -

if gals effluvia - diff from other products
taxation can be means to prevent low price.
if raise tax to establish min price.

Alaska - related to cigarettes.

can have healthy competition.

Not clear what policy interests are;
mentality has changed.

Even if policy, current systems "imprecise tool"
to achieve.

Quite a few that allow for healthy competition.

Cost more over

3 diff regions.

Efficiency gained there:

using debit pricing
quantity buys.
no credit base.

Predominant:

Cash delivery requirement - no advantages
to buy in quantity.

buy daily instead of one week supply.

Oregon - similar to here, also COD.

pricing diff from

have to make 20 phone calls to get price.

Ohio - similar restaurants

critical mass of stores in WA

Resp to Costco RFP
6097

David Bueman

min. markup - not firm foundation for "active supervision"
might pass state action but doesn't

misporting gives distributors a lot of power to
coordinate prices.

Not radical to say those provisions need to be
eliminated

couldn't come up w/ anything short of eliminating
the controls.

proven way to do business in other areas

Want better understanding of policy interests 'objectives'
then are more narrowly tailored

Has reviewed statutory provisions - could share
with us.

35-40 states - Costco presence

Problematic - Ohio
state -

CEO
Costco
Difficult
to understand

State not subjected to same restraints as private
credit
min. markup.

David Bueman Better to "bite the bullet" - ask for elimination,
than 1/2 step. Not easy to come up w/
1/2 way measure.

in response
to Rick's
comment

Resp to Costco RFP
6098

and burner (in response to MSL & Q)

US Supreme Ct has developed clearer framework
for anti-trust analysis.

State admin subject to scrutiny
More FTC attention

This is an area where very few have innovation
offering that Costco has, pass benefits
to customers.
Costco's story -
innovation offering → customer's benefit

Will provide us w/ specific revision in next 2 days

John Sullivan -

① what are the objectives, if better
understand then can help tailor.

② wine pricing survey - hard to square w/
temperatures.

Kent Ans: Temperance

David B: Is this still true? Didn't see in
annual report

If loan or credit, why does state have credit.

Rick G: our interest is not lower prices.

not because we want to be more competitive;

Resp to Costco RFP
6099

John G: References letter forwarded survey.
State is competitor but using regulatory status

John G:

Distributors told them State has benefit.

if they're bad for consumers, then why
LCB doing it?

Bettles understood why in place, then can craft
something middle ground.

Kinda Moran - matter of perspective how well system works.

Q: why now?

DB: More emphasis on innovation & efficiencies.

John Sullivan:

Reluctant that if distributors spearheaded changes.
that's being challenged.

David B: "clearly illegal"

Kent

Communications w/ outside:

Production mtg, will continue to discuss

If any changes to law, will require stakeholder
work.

Continue to have discussions & seek input

West Norwalk Ass'n v. Zoning Comm'n of Norwalk
6-17-1999 Superior Court of Conn.
Unreported decision

2 neighborhood ass'ns & 3 inds failed to
prevail, lacked standing to
challenge zoning commission's dec to
approve developer's ^{site} plans

Orange Co v. Costco Wholesale Corp
County ord that restricted distances
between package liquor stores was valid
exercise of police power, having substantial
relationships to health, safety, morals
or general welfare of community
823 So. 2d 732 (2002) Supreme Ct of Fla

active = state exercises "suff independent
✓ control" to demonstrate "details of
price handlers established as a product
of deliberate state intervention"

Midcal - CA statute required distributors to charge ^{resale} prices dictated by supplier
held: per se illegal prevents resale price maintenance agreements
Distinguishable?

Price markup is not dictated by suppliers

2-part test for state immunity

- ① clearly articulate policy
- ② actively supervise

suff.
to clearly
area

Midcal test does not apply, if state action is unilateral
does apply if hybrid - combining state "protected"
then must analyze for active supervision

Qs: Is state monopoly or grants power of monopolization?

Parker v. Brown CA scheme

allowed raisin growers to fix prices

Rice v. Williams - origin of "hybrid restraint"

State hybrid restraint - non-market mechanism enforces private
marketing decisions

Rice upheld CA statute

prohibiting retailers from importing spirits
unless brand distiller authorizes it to do so

crit of state
rejected facial challenge

Seagram - required distributors to file price schedules
w/ officials that prices limited to lesser
prices charged anywhere else in CA

because private actors had a degree of private reg power.

324 Liquor Corp

v. Duffy

US Sup Ct 1987

hybrid retailer/wholesaler

price posting * retailers must charge min 112% of wholesale

no state action immunity because state did not identify

superior prices

Resp to Costco RFP
6103

1-13-04 Rick

Rick: Share info as it occurs - told other stakeholders.

Be able to say:

Cortes: Look at speaking w/ other stakeholders
about changes that can be made
to statutes. Common interest / support
for where they like to go.

Not just simply going straight to court

Willing to work w/ us + stakeholders.

Start of filing a lawsuit.

Don't share details of proposal w/ Phil.

Let Bd members hear it.

Proposal too extreme?

Can't see how all players can agree.
Bd members

Ask Cortes talk to others, you need to "shep it."
has to be an agreement.

Not just us.

Made decision to litigate.

Spoke w/ Cortes yesterday
more negative reaction than expected
some say disappointed

Bueneis - John Sullivan

"Didn't say 'no', but saying

Can't LCB to conform to the law.

want to
think some
more,
John
Sullivan
want more
time.

Viewing this as a typical legislative process
agree + be happy.

Take back an alternative to litigation

Viewing this as a legislative proposition

Bueneis reason to reassure local distributors
if they want to encourage.

Don't want to be out selling our program

Resp to Costco RFP
6087

DEP EXH-300
CA... PANT
NOTARY PUBLIC

8-11-05

Made objct

Wrong on law

reason to senders
respectful of state

Slipping too far down the path. —

Wait a minute - ok. — to Bd.
Beyond all

Haven't said "no" to sitting down w/ stakeholders
but taken

Resp to Costco RFP
6088

Berntsen, Teresa E

From: Lee, Lorraine
Sent: Tuesday, May 04, 2004 7:37 PM
To: Berntsen, Teresa E
Cc: Reynolds, Randy S
Subject: Price Posting WAC Changes; Phil Wayt

Spoke to Phil Wayt at the BAC meeting last Thursday regarding his request to add reference to the Franchise Agreement Act. He's okay with **not** including it in the price posting rule changes and can wait until we deal with other non-retail rules.

L. Lee
301
DEP EXHIBIT
CAY. J. PANTE
NOTARY PUBLIC
8-1105

Resp to Costco RFP
4565

House, John

From: Lee, Lorraine
Sent: Tuesday, February 10, 2004 9:51 AM
To: Garza, Rick J
Subject: FW: Proposed Revised Language for SB 6737 re: Price Posting

I spoke to Rowland briefly yesterday afternoon, this email is a follow up to that conversation.

Paul Shipman is ok with SB 6737 (and the proposed change); Randy Reynolds spoke to him early this morning.

All stakeholders have been contacted and no problems. Rowland's final input is needed before I can contact Jennifer Strus.

-----Original Message-----

From: Lee, Lorraine
Sent: Tuesday, February 10, 2004 9:46 AM
To: 'anewspaper@aol.com'
Subject: Proposed Revised Language for SB 6737 re: Price Posting

Good morning Rowland,

Attached are copies of SB 6737 and the bill report as heard in the Senate Commerce & Trade Committee last week.

To address concerns raised about the confidentiality language in section 3 of the bill relating to price posting information, I am suggesting adding the clause "prior to the effective date of the posted prices."

With this add'l clause, the affected statutory provisions -- RCW 66.28.180(2)(g) and (3)(f), pages 5 & 7 of the bill -- would read as follows:

All price postings filed as required by this section constitute investigative information and shall not be subject to disclosure, pursuant to RCW 42.17.310(1)(d), prior to the effective date of the posted prices."

Some background information about how our price posting system works:

Under the current law, beer/wine suppliers (manufacturers/importers) and WA state distributors must post their prices on a WSLCB Web-based electronic program. This site is accessible only by the users (suppliers & distributors). All users are able to view prices (current postings as well as prices that have become effective) from their own PCs at home/office. Here at our headquarters office in Olympia, we have 2 computers set up with READ-ONLY capability into the site for anyone to view the postings, including the general public.

L Lee
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NOTARY PUBLIC
8-11-05

Resp to Costco RFP
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The suppliers and distributors post at different time periods during the month. Suppliers' prices are due by the 1st of the month for them to be effective the 1st of the next month. Then on the 10th of the month, the distributors' may start posting their prices -- again for the prices to be effective the 1st of the next month. My staff reviews the price postings to enforce a 10% minimum markup requirement for distributors and other price-related regulations. Because our review of the postings BEFORE they become effective are considered to be an investigative function for enforcement purposes, SB 6737 changes the language of the pertinent statutory provisions to reflect the short period of time while the posting activities are occurring and BEFORE the prices become effective.

If SB 6737 became law, then price postings would continue but the information on future prices would be considered confidential and not subject to viewing by users and the general public. Once the prices are effective, however, then the users and the general public would be allowed to access the information.

This may be way more information than you wanted, but I hope it's informative.

Please call me this morning when you get the chance.

Thanks.

Lorraine Lee
Director, Licensing & Regulation
Washington State Liquor Control Board
(360) 664-1615



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rt price postbe Postings.

Resp to Costco RFP
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